

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of

Atty Dkt. 2752-15

MAERTENS et al.

C# M#

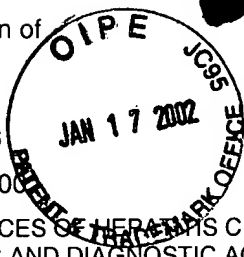
Serial No. 09/638,693

Group Art Unit: 1633

Filed: August 15, 2000

Examiner: Martinell

Date: January 17, 2002

Title: NEW SEQUENCES OF HERPES C VIRUS GENOTYPES AND THEIR USE AS  
THERAPEUTIC AND DIAGNOSTIC AGENTSAssistant Commissioner for Patents  
Washington, DC 20231RECEIVED  
JAN 23 2002  
TECH CENTER 1600/2900

Sir:

**RESPONSE/AMENDMENT/LETTER**

This is a response/amendment/letter in the above-identified application and includes an attachment which is hereby incorporated by reference and the signature below serves as the signature to the attachment in the absence of any other signature thereon.

**Fees are attached as calculated below:**

|  |    |                      |              |         |
|--|----|----------------------|--------------|---------|
| Total effective claims after amendment | 0  | minus highest number |              |         |
| previously paid for                    | 20 | (at least 20) =      | 0 x \$ 18.00 | \$ 0.00 |

|                                    |   |                      |              |         |
|------------------------------------|---|----------------------|--------------|---------|
| Independent claims after amendment | 0 | minus highest number |              |         |
| previously paid for                | 3 | (at least 3) =       | 0 x \$ 84.00 | \$ 0.00 |

|  |         |
|--|---------|
| If proper multiple dependent claims now added for first time, add \$280.00 (ignore improper) | \$ 0.00 |
|--|---------|

|  |         |
|--|---------|
| Petition is hereby made to extend the current due date so as to cover the filing date of this paper and attachment(s) (\$110.00/1 month; \$400.00/2 months; \$920.00/3 months) | \$ 0.00 |
|--|---------|

|   |         |
|---|---------|
| Terminal disclaimer enclosed, add \$ 110.00 | \$ 0.00 |
|---|---------|

|   |         |
|---|---------|
| <input type="checkbox"/> First/second submission after Final Rejection pursuant to 37 CFR 1.129(a) (\$740.00) | \$ 0.00 |
|---|---------|

☐ Please enter the previously unentered, filed☐ Submission attached**Subtotal \$ 0.00**

|   |          |
|---|----------|
| If "small entity," then enter half (1/2) of subtotal and subtract | -\$ 0.00 |
|---|----------|

☐ Applicant claims "small entity" status. ☐ Statement filed herewith

|  |         |
|--|---------|
| Rule 56 Information Disclosure Statement Filing Fee (\$180.00) | \$ 0.00 |
|--|---------|

|                                    |         |
|------------------------------------|---------|
| Assignment Recording Fee (\$40.00) | \$ 0.00 |
|------------------------------------|---------|

|        |      |
|--------|------|
| Other: | 0.00 |
|--------|------|

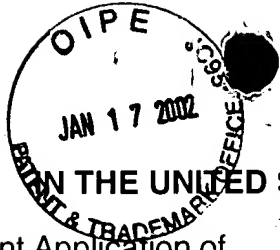
**TOTAL FEE ENCLOSED \$ 0.00**

The Commissioner is hereby authorized to charge any deficiency, or credit any overpayment, in the fee(s) filed, or asserted to be filed, or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Account No. 14-1140. A duplicate copy of this sheet is attached.

1100 North Glebe Road, 8<sup>th</sup> Floor  
Arlington, Virginia 22201-4714  
Telephone: (703) 816-4000  
Facsimile: (703) 816-4100  
BJS:eaw

NIXON & VANDERHYE P.C.  
By Atty: B. J. Sadoff, Reg. No. 36,663

Signature: 



# 13  
RD  
1-23-2

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of

**MAERTENS et al.**

Atty. Ref.: **2752-15**

Serial No. **09/638,693**

Group: **1633**

Filed: **August 15, 2000**

Examiner: **Martinell**

For: **NEW SEQUENCES OF HEPATITIS C VIRUS  
GENOTYPES AND THEIR USE AS THERAPEUTIC AND  
DIAGNOSTIC AGENTS**

\* \* \* \* \*

TECH CENTER 1600/2900

JAN 23 2002

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**January 17, 2002**

Assistant Commissioner for Patents  
Washington, DC 20231

Sir:

**RESPONSE**

Responsive to the Official Action dated December 17, 2001, the applicants elect, with traverse, SEQ ID NO:62 of claim 69, for further prosecution in the above.

Reconsideration and withdrawal of the restriction requirement is requested as the Examiner has failed to indicate, pursuant to MPEP, rules or law, how the alleged separately patentable sequences define separate inventions. The Examiner's apparent reliance on a *per se* rule of individual sequences being separately patentable inventions is, with all due respect, submitted to be improper. Reconsideration and withdrawal of the restriction requirement are requested. At a minimum, the Examiner is requested to provide a basis for the restriction requirement.

The Examiner indicates the claims have been renumbered as the Examiner believes only 21 claims were originally filed. The applicants note however that the originally filed application contained 23 claims, as noted on the Filing Receipt mailed

**MAERTENS et al.**  
**Serial No. 09/638,693**

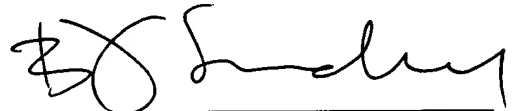
October 12, 2000 as well on pages 93 and 94 of the originally filed application which contains part of claim 21, claim 22, and claim 23. Accordingly, the applicants' numbering of the new claims 24-55 in the Amendment filed November 14, 2000, and the subsequent submission of claims 56-85 in the Preliminary Amendment of May 17, 2001, are submitted to be proper. The applicants submit therefore that claims 56-85 are pending. Clarification of the Examiner's remarks are requested in the event the Examiner continues to believe the claims should be renumbered.

Reconsideration and withdrawal of the restriction requirement are requested along with an early and favorable Action on the merits of all the claimed subject matter.

Respectfully submitted,

**NIXON & VANDERHYE P.C.**

By: \_\_\_\_\_



**B. J. Sadoff**

Reg. No. 36,663

**BJS:eaw**  
1100 North Glebe Road, 8th Floor  
Arlington, VA 22201-4714  
Telephone: (703) 816-4000  
Facsimile: (703) 816-4100